

ORDINANCE NO. 28539

AN URGENCY ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING ORDINANCE NO. 28517, WHICH AMENDS TITLE 16 OF THE SAN JOSÉ MUNICIPAL CODE, GAMING CONTROL REGULATORY PROGRAM, TO CLARIFY AND ENHANCE THE SCOPE, TERMS, CONDITIONS, AND PROCEDURES OF REGULATION OF CARDROOMS AND FUNDING SOURCES, AND TO MAKE TECHNICAL CHANGES TO THE TITLE, IN ORDER TO DELAY THE EFFECTIVE DATE FROM MAY 7, 2009 UNTIL THE PROPOSED AMENDMENTS TO TITLE 20 ALLOWING FOR RELOCATED CARDROOMS ARE ADOPTED AND TAKE EFFECT AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Ordinance No. 28517 shall not take effect until such time as the proposed amendments to Title 20 of the San José Municipal Code allowing for relocation of cardrooms are adopted by the City Council and take effect. The version of Title 16 of the San José Municipal Code in effect on April 7, 2009, the date when the City Council adopted Ordinance No. 28517 shall remain in effect until such time as the proposed amendments to Title 20 of the San José Municipal Code allowing for relocation of cardrooms are adopted by the City Council and take effect.

SECTION 2. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are: (A) the litigation settlement agreement with the Cardrooms which the Council approved on March 24, 2009 contemplated that the proposed amendments to Title 16 contained in Ordinance No. 28517 and the proposed amendments to Title 20 allowing for relocation of Cardrooms would take effect at the same time in order to effectuate the terms and conditions of litigation settlement agreement regarding the dismissal of the Cardrooms' actions against the City, and the mutual releases of the parties to the litigation; (B) it is clear at the present time that the proposed amendments to Title 20 allowing for the relocation of cardrooms will not be

considered for first reading by the City Council until May 19, 2009 while Ordinance No. 28517 will take effect on May 7, 2009 unless its effective date is delayed by adoption of this urgency ordinance; (C) if the proposed amendments to Title 20 are not approved as proposed, then the Cardrooms and the City have the ability to withdraw from the settlement agreement; (D) adoption of the urgency ordinance will avoid having the amendments to Title 16 go into effect at a time when the Cardrooms could withdraw from the settlement agreement thereby avoiding confusion about the effectiveness of the City's laws regulating cardrooms; (E) avoiding confusion about the effectiveness of the City's laws regulating cardrooms is necessary for the immediate preservation of the public peace, health and safety.

SECTION 3. This Ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San José and shall remain effective until the effective date of the proposed amendments to Title 20 of the San José Municipal Code allowing for relocation of cardrooms.

ADOPTED this 5th day of May, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
LICCARD, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk